

AMENDED IN SENATE APRIL 24, 2008

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1349

Introduced by Senator Cox

(Principal coauthor: Senator Aanestad)

(Coauthors: Assembly Members *Berryhill*, *Dymally*, *Horton*, and ~~La Malfa~~ *La Malfa*, and *Silva*)

February 20, 2008

An act to amend Section 5778 of the Welfare and Institutions Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1349, as amended, Cox. Medi-Cal funding: mental health services.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income persons are provided with health care services, including mental health services.

Under existing law, the State Department of Mental Health is required to implement managed mental health care for Medi-Cal recipients through fee-for-service or capitated contracts with counties, counties acting jointly, qualified individuals or organizations, or nongovernmental entities.

This bill would, *commencing July 1, 2009*, require the Controller to reimburse any fee-for-service county contractor or subcontractor that submits a claim for reimbursement for these services within 90 days after the receipt of the claim, and would provide that interest shall accrue on an unpaid claim, as prescribed, commencing on the 91st day after receipt of the claim, except as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5778 of the Welfare and Institutions Code
2 is amended to read:
3 5778. (a) This section shall be limited to mental health services
4 reimbursed through a fee-for-service payment system.
5 (b) As determined by the department, the mental health plan
6 contractor and subcontractors shall submit claims under the
7 Medi-Cal program for eligible services on a fee-for-service basis.
8 (1) The Controller shall reimburse any county contractor or
9 subcontractor that submits a claim under this section within 90
10 days after the receipt of a reimbursement claim by the department.
11 (2) Subject to paragraph (3), beginning on the 91st day after
12 receipt of the reimbursement request from the county contractor
13 or subcontractor, interest shall accrue at the *daily* Pooled Money
14 Investment Account rate. The interest shall be paid from the
15 ~~department's~~ *State Department of Mental Health's* budget.
16 (3) If sufficient funds are unavailable, the Controller shall
17 request the Director of Finance to include any amounts necessary
18 to satisfy the claims in a request for a deficiency appropriation.
19 Interest charges shall not accrue against the ~~department's~~ budget
20 for periods where the funding to the department is insufficient to
21 pay the claim.
22 (c) A qualifying county may elect, with the approval of the
23 department, to operate under the requirements of a capitated,
24 integrated service system field test pursuant to Section 5719.5
25 rather than this part, in the event the requirements of the two
26 programs conflict. A county that elects to operate under that section
27 shall comply with all other provisions of this part that do not
28 conflict with that section.
29 (d) (1) No sooner than October 1, 1994, state matching funds
30 for Medi-Cal fee-for-service acute psychiatric inpatient services,
31 and associated administrative days, shall be transferred to the
32 department. No later than July 1, 1997, upon agreement between
33 the department and the State Department of Health Care Services,
34 state matching funds for the remaining Medi-Cal fee-for-service
35 mental health services and the state matching funds associated

1 with field test counties under Section 5719.5 shall be transferred
2 to the department.

3 (2) The department, in consultation with the State Department
4 of Health Care Services, a statewide organization representing
5 counties, and a statewide organization representing health
6 maintenance organizations shall develop a timeline for the transfer
7 of funding and responsibility for fee-for-service mental health
8 services from Medi-Cal managed care plans to mental health plans.
9 In developing the timeline, the department shall develop screening,
10 referral, and coordination guidelines to be used by Medi-Cal
11 managed care plans and mental health plans.

12 (e) The department shall allocate the contracted amount at the
13 beginning of the contract period to the mental health plan. The
14 allocated funds shall be considered to be funds of the plan that
15 may be held by the department. The department shall develop a
16 methodology to ensure that these funds are held as the property of
17 the plan and shall not be reallocated by the department or other
18 entity of state government for other purposes.

19 (f) Beginning in the fiscal year following the transfer of funds
20 from the State Department of Health Care Services, the state
21 matching funds for Medi-Cal mental health services shall be
22 included in the annual budget for the department. The amount
23 included shall be based on historical cost, adjusted for changes in
24 the number of Medi-Cal beneficiaries and other relevant factors.

25 (g) Initially, the mental health plans shall use the fiscal
26 intermediary of the Medi-Cal program of the State Department of
27 Health Care Services for the processing of claims for inpatient
28 psychiatric hospital services and may be required to use that fiscal
29 intermediary for the remaining mental health services. The
30 providers for other Short-Doyle Medi-Cal services shall not be
31 initially required to use the fiscal intermediary but may be required
32 to do so on a date to be determined by the department. The
33 department and its mental health plans shall be responsible for the
34 initial incremental increased matching costs of the fiscal
35 intermediary for claims processing and information retrieval
36 associated with the operation of the services funded by the
37 transferred funds.

38 (h) The mental health plans, subcontractors, and providers of
39 mental health services shall be liable for all federal audit exceptions
40 or disallowances based on their conduct or determinations. The

1 mental health plan contractors shall not be liable for federal audit
2 exceptions or disallowances based on the state's conduct or
3 determinations. The department and the State Department of Health
4 Care Services shall work jointly with mental health plans in
5 initiating any necessary appeals. The State Department of Health
6 Care Services may offset the amount of any federal disallowance
7 or audit exception against subsequent claims from the mental health
8 plan or subcontractor. This offset may be done at any time, after
9 the audit exception or disallowance has been withheld from the
10 federal financial participation claim made by the State Department
11 of Health Care Services. The maximum amount that may be
12 withheld shall be 25 percent of each payment to the plan or
13 subcontractor.

14 (i) The mental health plans shall have sufficient funds on deposit
15 with the department as the matching funds necessary for federal
16 financial participation to ensure timely payment of claims for acute
17 psychiatric inpatient services and associated administrative days.
18 The department and the State Department of Health Care Services,
19 in consultation with a statewide organization representing counties,
20 shall establish a mechanism to facilitate timely availability of those
21 funds. Any funds held by the state on behalf of a plan shall be
22 deposited in a mental health managed care deposit fund and shall
23 accrue interest to the plan. The department shall exercise any
24 necessary funding procedures pursuant to Section 12419.5 of the
25 Government Code and Sections 8776.6 and 8790.8 of the State
26 Administrative Manual regarding county claim submission and
27 payment.

28 (j) (1) The goal for funding of the future capitated system shall
29 be to develop statewide rates for beneficiary, by aid category and
30 with regional price differentiation, within a reasonable time period.
31 The formula for distributing the state matching funds transferred
32 to the department for acute inpatient psychiatric services to the
33 participating counties shall be based on the following principles:

34 (A) Medi-Cal state General Fund matching dollars shall be
35 distributed to counties based on historic Medi-Cal acute inpatient
36 psychiatric costs for the county's beneficiaries and on the number
37 of persons eligible for Medi-Cal in that county.

38 (B) All counties shall receive a baseline based on historic and
39 projected expenditures up to October 1, 1994.

(C) Projected inpatient growth for the period October 1, 1994, to June 30, 1995, inclusive, shall be distributed to counties below the statewide average per eligible person on a proportional basis. The average shall be determined by the relative standing of the aggregate of each county's expenditures of mental health Medi-Cal dollars per beneficiary. Total Medi-Cal dollars shall include both fee-for-service Medi-Cal and Short-Doyle Medi-Cal dollars for both acute inpatient psychiatric services, outpatient mental health services, and psychiatric nursing facility services, both in facilities that are not designated as institutions for mental disease and for beneficiaries who are under 22 years of age and beneficiaries who are over 64 years of age in facilities that are designated as institutions for mental disease.

(D) There shall be funds set aside for a self-insurance risk pool for small counties. The department may provide these funds directly to the administering entity designated in writing by all counties participating in the self-insurance risk pool. The small counties shall assume all responsibility and liability for appropriate administration of these funds. For purposes of this subdivision, "small counties" means counties with less than 200,000 population. Nothing in this paragraph shall in any way obligate the state or the department to provide or make available any additional funds beyond the amount initially appropriated and set aside for each particular fiscal year, unless otherwise authorized in statute or regulations, nor shall the state or the department be liable in any way for mismanagement of loss of funds by the entity designated by the counties under this paragraph.

(2) The allocation method for state funds transferred for acute inpatient psychiatric services shall be as follows:

(A) For the 1994–95 fiscal year, an amount equal to 0.6965 percent of the total shall be transferred to a fund established by small counties. This fund shall be used to reimburse mental health plans in small counties for the cost of acute inpatient psychiatric services in excess of the funding provided to the mental health plan for risk reinsurance, acute inpatient psychiatric services and associated administrative days, alternatives to hospital services as approved by participating small counties, or for costs associated with the administration of these moneys. The methodology for use of these moneys shall be determined by the small counties, through

1 a statewide organization representing counties, in consultation
2 with the department.

3 (B) The balance of the transfer amount for the 1994–95 fiscal
4 year shall be allocated to counties based on the following formula:

5		
6	County	Percentage
7	Alameda.....	3.5991
8	Alpine.....	.0050
9	Amador.....	.0490
10	Butte.....	.8724
11	Calaveras.....	.0683
12	Colusa.....	.0294
13	Contra Costa.....	1.5544
14	Del Norte.....	.1359
15	El Dorado.....	.2272
16	Fresno.....	2.5612
17	Glenn.....	.0597
18	Humboldt.....	.1987
19	Imperial.....	.6269
20	Inyo.....	.0802
21	Kern.....	2.6309
22	Kings.....	.4371
23	Lake.....	.2955
24	Lassen.....	.1236
25	Los Angeles.....	31.3239
26	Madera.....	.3882
27	Marin.....	1.0290
28	Mariposa.....	.0501
29	Mendocino.....	.3038
30	Merced.....	.5077
31	Modoc.....	.0176
32	Mono.....	.0096
33	Monterey.....	.7351
34	Napa.....	.2909
35	Nevada.....	.1489
36	Orange.....	8.0627
37	Placer.....	.2366
38	Plumas.....	.0491
39	Riverside.....	4.4955
40	Sacramento.....	3.3506

County	Percentage
San Benito.....	.1171
San Bernardino.....	6.4790
San Diego.....	12.3128
San Francisco.....	3.5473
San Joaquin.....	1.4813
San Luis Obispo.....	.2660
San Mateo.....	.0000
Santa Barbara.....	.0000
Santa Clara.....	1.9284
Santa Cruz.....	1.7571
Shasta.....	.3997
Sierra.....	.0105
Siskiyou.....	.1695
Solano.....	.0000
Sonoma.....	.5766
Stanislaus.....	1.7855
Sutter/Yuba.....	.7980
Tehama.....	.1842
Trinity.....	.0271
Tulare.....	2.1314
Tuolumne.....	.2646
Ventura.....	.8058
Yolo.....	.4043

(k) The allocation method for the state funds transferred for subsequent years for acute inpatient psychiatric and other mental health services shall be determined by the department in consultation with a statewide organization representing counties.

(l) The allocation methodologies described in this section shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis. When federal funds are capitated, the department, in consultation with a statewide organization representing counties, shall determine the methodology for capitation consistent with federal requirements.

(m) The formula that specifies the amount of state matching funds transferred for the remaining Medi-Cal fee-for-service mental health services shall be determined by the department in consultation with a statewide organization representing counties.

1 This formula shall only be in effect while federal financial
2 participation is received on a fee-for-service reimbursement basis.

3 (n) Upon the transfer of funds from the budget of the State
4 Department of Health Care Services to the department pursuant
5 to subdivision (d), the department shall assume the applicable
6 program oversight authority formerly provided by the State
7 Department of Health Care Services, including, but not limited to,
8 the oversight of utilization controls as specified in Section 14133.
9 The mental health plan shall include a requirement in any
10 subcontracts that all inpatient subcontractors maintain necessary
11 licensing and certification. Mental health plans shall require that
12 services delivered by licensed staff are within their scope of
13 practice. Nothing in this part shall prohibit the mental health plans
14 from establishing standards that are in addition to the minimum
15 federal and state requirements, provided that these standards do
16 not violate federal and state Medi-Cal requirements and guidelines.

17 (o) Subject to federal approval and consistent with state
18 requirements, the mental health plan may negotiate rates with
19 providers of mental health services.

20 (p) Under the fee-for-service payment system, any excess in
21 the payment set forth in the contract over the expenditures for
22 services by the plan shall be spent for the provision of mental
23 health services and related administrative costs.

24 (q) Nothing in this part shall limit the mental health plan from
25 being reimbursed appropriate federal financial participation for
26 any qualified services even if the total expenditures for service
27 exceeds the contract amount with the department. Matching
28 nonfederal public funds shall be provided by the plan for the federal
29 financial participation matching requirement.

30 (r) (1) The department shall establish, by regulation, a
31 risk-sharing arrangement between the department and counties
32 that contract with the department as mental health plans to provide
33 an increase in the state General Fund allocation, subject to the
34 availability of funds, to the mental health plan under this section,
35 where there is a change in the obligations of the mental health plan
36 required by federal or state law or regulation, or required by a
37 change in the interpretation or implementation of any such law or
38 regulation which significantly increases the cost to the mental
39 health plan of performing under the terms of its contract.

1 (2) During the time period required to redetermine the allocation,
2 payment to the mental health plan of the allocation in effect at the
3 time the change occurred shall be considered an interim payment,
4 and shall be subject to increase effective as of the date on which
5 the change is effective.

6 (3) In order to be eligible to participate in the risk-sharing
7 arrangement, the county shall demonstrate, to the satisfaction of
8 the department, its commitment or plan of commitment of all
9 annual funding identified in the total mental health resource base,
10 from whatever source, but not including county funds beyond the
11 required maintenance of effort, to be spent on mental health
12 services. This determination of eligibility shall be made annually.
13 The department may limit the participation in a risk-sharing
14 arrangement of any county that transfers funds from the mental
15 health account to the social services account or the health services
16 account, in accordance with Section 17600.20 during the year to
17 which the transfers apply to mental health plan expenditures for
18 the new obligation that exceed the total mental health resource
19 base, as measured before the transfer of funds out of the mental
20 health account and not including county funds beyond the required
21 maintenance of effort. The State Department of Mental Health
22 shall participate in a risk-sharing arrangement only after a county
23 has expended its total annual mental health resource base.

24 *SEC. 2. This act shall become operative on July 1, 2009.*